



**THE ATTORNEY GENERAL
OF TEXAS**

April 17, 1987

**JIM MATTOX
ATTORNEY GENERAL**

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Vance Dunnam, Sr.
P. O. Box 8418
Waco, TX 76714-8418

Re: State of Texas v. Chemical Recycling, Inc. and James R. Siemoneit, Cause No. 219-069-86, 219th District Court, Collin County, Texas

Dear Mr. Dunnam:

This letter is in response to two letters from your client, Mr. James R. Siemoneit to Mr. Bryan Dixon of the Texas Water Commission ("TWC"). The letters are dated December 19, 1986 and January 5, 1987. Because of the pending lawsuit between the State and Mr. Siemoneit, Mr. Dixon has requested that I respond to these letters for him.

Three items stand out in the letter of January 5. The first is that Mr. Siemoneit requests a settlement without a civil penalty. The State will not agree to such a settlement. Because of the numerous intentional and knowing violations of the industrial and hazardous waste laws, this case cannot be settled without a substantial penalty.

The second notable point about the January 5 letter is that in writing Mr. Dixon regarding a settlement, Mr. Siemoneit is attempting to negotiate with the wrong office. Since the Attorney General represents TWC in the enforcement lawsuit, I request that you instruct your client that all future contacts regarding the lawsuit should be directed to my office.

Finally, Mr. Siemoneit's letter of January 5 refers to being "in trouble with Duncanville". This evidently is a reference to a belief by Mr. Siemoneit that there is some difference in how the TWC District Office and the TWC Central Office view this case. Please be advised that the Executive Director of TWC referred this case to the Attorney General's Office and asked us to file suit. I would suggest that your clients should be less concerned about trouble with Duncanville and more concerned about trouble with a Collin County jury.

Letter to Mr. Vance Dunnam, Sr.
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Page 2

Mr. Siemoneit's letter of December 19 raises the issue of the buried sludges. As Mr. Siemoneit has known for several years now, since these sludges are still bottoms from the recovery of solvents they are "listed hazardous wastes". (See 40 C.F.R. § 261.31). The significance of this fact is that EPA has determined that these wastes are hazardous in any quantity.

Mr. Siemoneit has requested that he be allowed to leave the hazardous still bottoms where they are--buried in the ground at the Chemical Recycling plant site. He attempts to justify this in part by reference to water extraction and EP Toxic leachate tests. These two procedures are applicable only for discovering the presence of heavy metals and pesticides. To date, the State has no information that suggests the presence of heavy metals or pesticides in Chemical Recycling wastes, and this possibility has not been a concern. If there is some evidence of the presence of any heavy metal or pesticide, I request that you promptly bring that information to my attention.

The primary concern about the burial of the hazardous waste still bottoms is that they will contaminate the groundwater with solvents. Your client's December 19 letter implies that the buried still bottoms contain less than 1% solvent. Assuming this is accurate, it is not at all persuasive. Preliminary indications are that there are several shallow water wells within one mile of the Chemical Recycling plant. Most of the solvents handled by the company present health hazards in drinking water in concentrations far lower than one part per million.

Moreover, Mr. Siemoneit's actions in burying these hazardous wastes created a "hazardous waste landfill." The creation of a hazardous waste landfill carries with it a number of legal obligations:

- 1) Your clients must install and operate a groundwater monitoring system, as required by 31 TEX. ADMIN. CODE §§335.112(a)(5) and 335.116, and 40 C.F.R. §265, Subpart F. Please note that this system must include at least one monitoring well upgradient from the landfill and at least three wells downgradient. (40 C.F.R. §265.91). Also, your clients are required to develop and follow a groundwater sampling and analysis plan (40 C.F.R. §265.92). Location and design of each monitoring well must be approved by TWC.

Any justification for "in-place closure" of the landfill (i.e. leaving the waste buried at the plant) must be based on the results of repeated sampling of this groundwater monitoring well system.

- 2) Because there is no permit for this landfill, it must be "closed". Before it can be closed, however, your clients are required to submit a "closure plan" for TWC technical review and approval. The following are citations to regulations that set the standards that a closure plan and a closure must meet:

- (a) 31 TEX. ADMIN. CODE §335.112(a)(6);
- (b) 31 TEX. ADMIN. CODE §335.118; and
- (c) 40 C.F.R. §265, Subpart G.

Please note that closure of a landfill without an approved closure plan or contrary to an approved closure plan is a violation subject to additional penalties. Also please note that the methods necessary to properly close a landfill are controlled by technical factors relating to the type of wastes, the nature of soils, the proximity of groundwater and surface water, and other environmental factors that vary from site to site. If, as Mr. Siemoneit has proposed, he desires to close the landfill by leaving the wastes in place, he must provide proof that constituents of these hazardous wastes have not entered the groundwater, and this proof must be certified by a professional engineer. This proof must be based on repeated sampling of the groundwater monitoring wells referred to in paragraph (1), above.

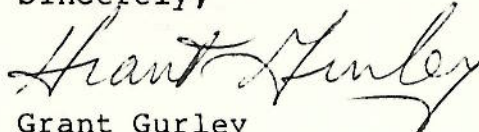
- 3) If you clients want to close the landfill by leaving the hazardous wastes in place, they must also prepare and submit for TWC technical review and approval a "post-closure plan", as required by 31 TEX. ADMIN. CODE §§335.112(a)(6) and 335.119, and 40 C.F.R. §265, Subpart G. Furthermore, if they intend to leave the wastes in place, your clients must provide for 30 years of "post-closure care", as required by 31 TEX. ADMIN. CODE §335.112(a)(6) and 40 C.F.R. §265.117. This post-closure care includes continued groundwater monitoring, maintenance of a cap on the landfill, and reporting to TWC for the full 30 year post-closure care period. Additionally, if your clients wish to close the landfill by leaving the hazardous wastes in place, they must provide post-closure care financial assurance for the full 30-year post-closure care period, as required by 31 TEX. ADMIN. CODE §335.112(a)(7) and 40 C.F.R. §265, Subpart H, and must obtain a post-closure care permit from TWC.

Letter to Mr. Vance Dunnam, Sr.
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Page 4

As you can see from the foregoing, there are a number of prerequisites that Mr. Siemoneit and Chemical Recycling must meet before TWC can approve any type of closure of the landfill, whether Mr. Siemoneit decides to close by excavation and treatment or disposal at a permitted hazardous waste facility or whether he still wishes to attempt to justify closure by leaving the wastes buried. In either case, before your clients begin any type of closure, they must submit a closure plan for TWC's approval. This letter is a formal request that Mr. Siemoneit and Chemical Recycling submit a closure plan for the landfill within 30 days of the date of this letter.

If you have any questions, please call me.

Sincerely,



Grant Gurley
Assistant Attorney General
Environmental Protection Division

P.O. Box 12548
Austin, Texas 78711-2548
(512) 463-2012

0174G

GG:le

cc: Bryan Dixon
Mike Woodward
Mike Moore✓
Don Eubank

*

File Code I-1. TX DO53131223

RECORD OF COMMUNICATION		<input type="checkbox"/> PHONE CALL <input type="checkbox"/> DISCUSSION <input type="checkbox"/> FIELD TRIP <input type="checkbox"/> CONFERENCE <input type="checkbox"/> OTHER (SPECIFY) _____			
		(Record of item checked above)			
TO: <u>File</u>		FROM: <u>Kathleen Lohry</u>		DATE <u>3-23-89</u> TIME _____	
SUBJECT <u>Chemical Recycling, Inc., Wylie Texas TX DO53131223 - inspection report of 12-19-88</u>					
SUMMARY OF COMMUNICATION <p>I spoke to Pat Hammock about this site. It is now an EPA superfund site and will be cleaned up within a month. The owner has declared bankruptcy and deserted the site. Therefore, I have determined that it is not necessary to send a warning letter for land ban violations based upon the my review of the last TWC inspection report.</p> 					
CONCLUSIONS, ACTION TAKEN OR REQUIRED 					
INFORMATION COPIES TO: <u>Pat Hammock</u>					



08/04/81

FIRST,
REMOVE
FROM
SYSTEM

[illegible]

SECOND,
CHANGE:

[illegible][illegible][illegible][illegible][illegible][illegible][illegible]

OLD FACILITY-ID

T

1 2 13 14 15 26

NEW FACILITY-ID

Hazardous Waste Compliance Monitoring and Enforcement Log

1. EPA ID: <u>TX D053131223</u> 2. HANDLER NAME: <u>Chemical Recycling Inc.</u> 3. ADDRESS: <u>802 Kirby St., Wylie</u>	4. HANDLER TYPE: <input checked="" type="checkbox"/> MAJOR <input type="checkbox"/> NON-MAJOR
---	---

5. DATE OF INITIAL EVALUATION WHICH IS THE BASIS FOR THIS REPORT: <u>Action</u> <u>Record</u>	<u>12/07/83</u> H D Y	Seg # <u>8-3-84</u> <u>DF</u>
---	--------------------------	----------------------------------

6. TYPE OF EVALUATION COVERED BY THIS REPORT: <u>Action</u> <u>A.C. or D</u>	<input checked="" type="checkbox"/> EVALUATION INSPECTION <input type="checkbox"/> NON-GWM SAMPLING INSPECTION	<input type="checkbox"/> RECORD REVIEW <input type="checkbox"/> GROUNDWATER MONITORING EVALUATION	<input type="checkbox"/> FOLLOW-UP INSPECTION <input type="checkbox"/>	RESPONSIBLE AGENCY: <u>S</u>
--	---	--	---	------------------------------

7. DATE OF EVALUATION COVERED BY THIS REPORT (enter only if different from 5):	<u>03/13/84</u> H D Y	RR Type <u>Res p Person</u>
--	--------------------------	-----------------------------

8. AREA AND CLASS OF VIOLATION (enter number of violations by area and class):	Class of Violation	Area of Violation						Manifest
		GWM	CI/PC	Fin. Res.	PL. B	Comp. Sched.	Other	
I		01	01	01				01
II								
III							01	

9. ENFORCEMENT ACTIONS FOR VIOLATIONS:														
Violation		Type of Action taken (circle one)						Date Action taken (mdy)	Compliance Dates (mdy)		Penalty		Responsible Agency	Person
Class	Area								Scheduled	Actual	Assessed	Collected		
		Informal	WL/NOV	AD	CivAc	CrimAc	other	____/____/____	____/____/____	____/____/____	____	____	____	____
		Informal	WL/NOV	AD	CivAc	CrimAc	other	____/____/____	____/____/____	____/____/____	____	____	____	____
		Informal	WL/NOV	AD	CivAc	CrimAc	other	____/____/____	____/____/____	____/____/____	____	____	____	____
		Informal	WL/NOV	AD	CivAc	CrimAc	other	____/____/____	____/____/____	____/____/____	____	____	____	____
		Informal	WL/NOV	AD	CivAc	CrimAc	other	____/____/____	____/____/____	____/____/____	____	____	____	____
		Informal	WL/NOV	AD	CivAc	CrimAc	other	____/____/____	____/____/____	____/____/____	____	____	____	____
		Informal	WL/NOV	AD	CivAc	CrimAc	other	____/____/____	____/____/____	____/____/____	____	____	____	____

10. COMMENTS: Action Seg # *02 Referred for Enf. action 3/13/84 ; No GWM Fac. Installed
Transp. ck list included.

***
MC

HAZARDOUS WASTE COMPLIANCE MONITORING AND ENFORCEMENT

INDUSTRY NAME: Chemical Recycling, Inc. PHONE: (214) 442-549SITE ADDRESS: 802 Kirby St., Wylie, Tx ZIP: 75098 COUNTY: CollinTDWR PERMIT OR REGIS. NO. 32355 EPA ID NO. TXD053131223INDUSTRY NAME CHEM RECY DISTRICT 04 DATE REPORT SUBMITTED 03/84TYPE OF FACILITY GFT MAJOR/NONMAJOR M TYPE OF EVALUATION EVDATE OF EVALUATION OR ENFORCEMENT REFERRAL 12-09-83

Types Of Violations	Deg.	Date Of Notif. Letter	Date Of Inf. Enf. Act.	Date Response Due	Date Of Actual Compliance	Resolved Unresolved
<u>GWM</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>
<u>INC</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>
<u>CLO</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>
<u>FIN</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>
<u>PTB</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>
<u>MAN</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>
<u>SCH</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>
<u>OTH</u>	<u>3</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>u</u>

COMMENTS:

*01 114 3 u 116 3 u 117 3 u 131 3 u

151 3 u 171 3 u 004 1 u 0020 1 u 212 1 u

*02 Referred for action 3/13/84; No GWM ~~action~~ FAC. Installed

TRANSP. CK List included

NUMBER OF SAMPLES: 0WORK NO.: 9093SUBMITTED BY: Gandy Antoin

Coordinator Initials

FY 1985 HAZARDOUS WASTE COMPLIANCE MONITORING AND ENFORCEMENT LOG

OKH

EPA ID: TX D053131223

14. Handler Type: ☒ Major

HANDLER NAME: _____

1-1 Non-Major

ADDRESS: _____

DATE OF INITIAL EVALUATION WHICH IS
THE BASIS FOR THIS REPORT: 8/12/84

So. AGENCY RESPONSIBLE FOR

EVALUATION:

Put code in box 1-1

Choose one

E = EPA

S = State

J = Joint

C = Contractor/EPA

O = Other

B = Contractor/State

X = Oversight

TYPE OF EVALUATION COVERED

1-1

BY THIS REPORT:

Put code in box

Choose one

1 = Evaluation Inspection

2 = Sampling Inspection

3 = Record Review

4 = Ground Water Monitoring Evaluation

5 = Follow Up

6 = Other - Citizen Complaint

7 = Other - Part B Call-In

8 = Other - Withdrawal Candidate

9 = Other - Closed Facility

0 = Other - General

DATE OF EVALUATION COVERED BY
THIS REPORT (enter only if different from 5): 85.01.15AREA AND CLASS OF VIOLATION
(enter 'X' in appropriate box
if violations found. Enter
'0' if no violations found in
Area violated.)Class of
Violation

Area of Violation

BWM

CL/PC

Fin. Res.

Pt. D

Corl. Sch.

Manifest

Other

EF1 EF2 EF3

X

X

X

X

X

X

S 02 SA

0

0

0

0

0

0

S 02 SA

ENFORCEMENT ACTIONS:

Area of Class Violation	Type (use code)	Date Action Taken	Compliance Dates		Penalty		Resp. Ag. (use code)
			Scheduled	Actual	Assessed	Collected	

Codes for Types of Enforcement Actions: 03 = Warning Letter

05 = Administrative Order

11 = Filed Civil Action

12 = Filed Criminal Action

(See instruction for additional codes)

10 = Informal

13 = EPA letter to States

Codes for Responsible Agency: E = EPA

S = State

X = EPA oversight

Comments:

Facility is in enforcement.

(Limit each comment to 80 characters. Up to 99 comments are possible.)

2.14.85

	Initials	Date
Reviewed HWDMS, agrees with inspection information	_____	_____
Reviewed HWDMS, does not agree with inspection information	_____	_____
Major/Nonmajor status verified	_____	_____

Routing:

	Name	Initials	Date
1. Enforcement Coordinator	_____	_____	_____
2. Compliance Coordinator	_____	_____	_____
3. (If incorrect, return to originator)	_____	_____	_____
4. J. Hail/ D. French	_____	_____	_____
5. Enforcement Coordinator	_____	_____	_____
6. If incorrect, review and return to J. Hail/D. French	_____	_____	_____
7. M. Burns	_____	_____	_____

Comments:

TEXAS DEPARTMENT OF WATER RESOURCES

HAZARDOUS WASTE COMPLIANCE MONITORING AND ENFORCEMENT LOG


☒ NEW ☐ UPDATE
TDWR ID: 323551. EPA ID: TXD053131223INDUSTRY: CHEM RCYDISTRICT: 042. INDUSTRY NAME: Chemical Recycling, Inc.PHONE: (214) 442-54953. SITE ADDRESS: 802 Kirby St., Wylie, TX ZIP: 75098COUNTY: Collin7. DATE SUBT: 01-15-85
(CENTRAL OFFICE USE ONLY)FACILITY: GFT
(G,F,T, 1,2,3)4. MAJOR/NONMAJOR: M6. TYPE OF EVALUATION: EV

(CEI-EV, EC; CME-GW; OTHER-CL, SW; SAMPLE-SA; FOLLOW UP-FO; RECORD REVIEW-RC, RF; FOR HIGH PRIORITY PLACE H IN 1ST BLOCK)

5. DATE OF INITIAL EVALUATION: 12-17-84

RESPONSIBLE AGENCY: S

E v a l	D e g	Date Notice of Violation	Date Conference	Date Refer. to Austin for Enf.	Date High Prior. Determination	Date of Estim. Compliance	Date Response is Due for Nov.	Date of Actual Compliance	Resolv/Unres/ Complaint
GW	X	1		03-13-84					U
CL	X	1		03-13-84					U
PT									
MA	X	1		03-13-84					U
FI	X	1		03-13-84					U
SC									
OT	X			03-13-84					U

COMMENTS: (COUNTY)

001 043 006C 0 U 015b 2 U 004 1 U 114 1 U 115 1 U 116

1 3 5 7 9 12 14 16 18 21 23 25 27 30 32 34 36 39 41 43 45 48 50 52 54 57

1 U 117 1 U 131 2 U 151 1 U 173 1 U 241 1 U

59 61 63 66 68 70 72 75 77 79 81 84 86 88 90 93 95 97 99 102 104 106

002 Facility is in enforcement

WORK NO: 9093NO. OF SAMPLES: 0SUBMITTED BY: Jandra AntoinetteRECEIVED
ENFORCEMENT AND
FIELD OPERATIONS

JAN 29 1985

HAZARDOUS WASTE COMPLIANCE MONITORING AND ENFORCEMENT LOG



SSF

X GG

<input checked="" type="checkbox"/> NEW <input type="checkbox"/> UPDATE			
TDWR ID: 32355 <small>2 6</small>	1. EPA ID: TXD053131223 <small>8 19</small>	INDUSTRY: CHEM RCY <small>21 28</small>	DISTRICT: 04 <small>30 31</small>
2. INDUSTRY NAME: <u>Chemical Recycling</u>		PHONE: () -	
3. SITE ADDRESS: <u>Weylies, TX</u>		ZIP: COUNTY: <u>Collin</u>	
7. DATE SUBT: 07-15-85 <small>33 34 35 36</small> (CENTRAL OFFICE USE ONLY)	FACILITY: GFT <small>38 40</small> (G,F,T, 1,2,3)	4. MAJOR/NONMAJOR: N <small>42</small>	6. TYPE OF EVALUATION: FC <small>44 45</small> (CEI-EV, EC; CME-GW; OTHER-CL, SW, OT; SAMPLE-SA; FOLLOW UP-FO; RECORD REVIEW-RC, RF; FOR HIGH PRIORITY PLACE H IN 1ST BLOCK)
5. DATE OF INITIAL EVALUATION: 07-09-85 <small>47 54</small>		RESPONSIBLE AGENCY: S	

E v a l		D e g		AREA AND CLASS OF VIOLATION (INCLUDES DISTRICT LEVEL ENFORCEMENT ACTIONS)										Resolv/Unre Compliant			
				Date Notice of Violation	Date Conference	Date Refer. to Austin for Enf.	Date High Prior. Determination	Date of Estim. Compliance	Date Response is Due for NOV	Date of Actual Compliance							
GW																	
56 57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124
CL	X	I					03-13-84										U
56 57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124
PT																	
56 57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124
MA	X	I					03-13-84										U
56 57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124
FI	X	I					03-13-84										U
56 57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124
SC	X	I					03-13-84										U
56 57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124
OT	X	I					03-18-84										U
56 57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124

COMMENTS: (COUNTY)

A number line from 1 to 106. The boxes for 0, 4, and 3 are highlighted. An arrow points from the box for 3 to the box for 63.

☐ ☐ ☐ Follow-up inspection to determine compliance with 05-15-85
 C.A. Company Remains in significant violation

WORK NO: _____ NO. OF SAMPLES: _____ SUBMITTED BY: _____

HAZARDOUS WASTE COMPLIANCE MONITORING AND ENFORCEMENT LOG



KZ

<input checked="" type="checkbox"/> NEW <input type="checkbox"/> UPDATE			
TDWR ID: 32355 <small>2 6</small>	1. EPA ID: TXD053131223 <small>8 19</small>	INDUSTRY: CHEM RCY <small>21 28</small>	DISTRICT: 04 <small>30 31</small>
2. INDUSTRY NAME: <u>Chemical Recycling, Inc.</u>		PHONE: () - -	
3. SITE ADDRESS: <u>Wylie, TX</u>		ZIP: COUNTY: <u>Collin</u>	

E v a l		D e g		AREA AND CLASS OF VIOLATION (INCLUDES DISTRICT LEVEL ENFORCEMENT ACTIONS)																		Resolv/Unres/ Compliant																																						
				Date Notice of Violation				Date Conference				Date Refer. to Austin for Enf.				Date High Prior. Determination				Date Response is Due for NOV				Date of Estim. Compliance				Date of Actual Compliance																																
G	W																																																											
56	57	58	59	61	62	63	64	65	66	67	68	70	71	72	73	74	75	76	77	79	80	81	82	83	84	85	86	88	89	90	91	92	93	94	95	97	98	99	100	101	102	103	104	106	107	108	109	110	111	112	113	115	116	117	118	119	120	121	122	124
C	L																																																											
P	T																																																											
M	A																																																											
F	I																																																											
S	C																																																											
O	T																																																											
COMMENTS: (COUNTY)																																																												
• 0 1		0 4 3																																																										
1	3	5	7	9	12	14	16	18	21	23	25	27	30	32	34	36	39	41	43	45	48	50	52	54	57																																			
• 0 2																																																												

WORK NO: 9091 NO. OF SAMPLES: 3 SUBMITTED BY: KEN ZARKER, Program Support for Geraldo H Garcia

RECORD OF COMMUNICATION

☐ PHONE CALL ☐ DISCUSSION ☐ FIELD TRIP ☒ CONFERENCE
☐ OTHER (SPECIFY)

(Record of item checked above)

TO: Steven Rubin Acting
Chief Permits

FROM: Marc Sides
Permits

DATE 2-5-86

TIME 1:00 - 2:30

SUBJECT

Chemical Recycling (TXD053131223)

SUMMARY OF COMMUNICATION

Bob Simonite and I held a meeting in EPA's new library on the 27th floor to discuss EPA comments ^(10/28/84) on a TWC prepared draft permit. George Hartman (the TWC permit writer responsible for Chemical Recycling) sent our comments to him (Simonite).

Generally Bob and I discussed how our comments apply to his solvent recycling facility and how he should address them.

CONCLUSIONS, ACTION TAKEN OR REQUIRED

Bob will respond to our comments ~~th~~ through George Hartman.
Bob and I did not discuss HSWA.

INFORMATION COPIES

TO: files

[Signature]

STATE OF TEXAS

[illegible]

VS.

CHEMICAL RECYCLING, INC.
AND JAMES R. SIEMONEIT,

219 JUDICIAL DISTRICT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the State of Texas, plaintiff, and files this suit against Chemical Recycling, Inc., and James R. Siemoneit, defendants, and for cause of action would respectfully show the Court as follows:

I. PLAINTIFF

1.1. Plaintiff, the State of Texas, is authorized to bring this suit through its Attorney General, Jim Mattox, at the request and on the behalf of the Texas Water Commission ("TWC") pursuant to the Texas Solid Waste Disposal Act, TEX. REV. CIV. STAT. ANN. art. 4477-7 (Vernon Supp. 1986). As of September 1, 1985, TWC is the successor agency to the Texas Department of Water Resources ("TDWR") with respect to regulatory jurisdiction for actions brought under the Texas Solid Waste Disposal Act. TEX. WATER CODE ANN. §5.013 (Vernon Supp. 1986). The reorganization of TDWR into the TWC and the Texas Water Development Board does not affect any standard, rule, criterion, order, resolution, or penalty that existed under TDWR, TWC or the Texas Water Development Board as they existed before the reorganization. Act of June 15, 1985; ch. 795, §10.004, 1985 Tex. Sess. Law Serv. 5743, 6009 (Vernon). This suit is brought seeking to enjoin certain unlawful acts of Defendants and to collect civil penalties for violations of the Act and the rules and regulations promulgated thereunder.

1.2. No filing fee or other security for costs is required of the State of Texas. Act of June 16, 1985, ch. 959, §6.001, Tex. Sess. Law Serv. 7048 (Vernon), to be codified at TEX. CIV. PRAC. AND REMEDIES CODE ANN. §6.001.

II. DEFENDANTS; VENUE

2.1. Defendant Chemical Recycling, Inc. is a corporation duly formed and existing under the laws of the State of Texas and may be served with process by serving its registered agent, James R. Siemoneit, at its registered address, 2431 Fairway Drive, Richardson, Dallas County, Texas.

2.2. Defendant James R. Siemoneit is an individual residing at 2431 Fairway Drive in Richardson, Dallas County, Texas, and may be served with process at that address.

2.3. Defendant Chemical Recycling, Inc. is the owner and operator of a solvent recycling plant located in Collin County, Texas. All acts, omissions and violations alleged in this petition occurred at or in the vicinity of the said plant, and therefore, venue is proper in Collin County, Texas. TEX. REV. CIV. STAT. ANN. art. 4477-7, §6 (Vernon Supp. 1986).

III. THE TEXAS SOLID WASTE DISPOSAL ACT AND ITS RELATIONSHIP TO FEDERAL LAW

The Texas Solid Waste Disposal Act was enacted by the Texas Legislature in order to

safeguard the health, welfare, and physical property of the people, and to protect the environment, through controlling the management of solid wastes, including the accounting for hazardous wastes generated.

TEX. REV. CIV. STAT. ANN. art. 4477-7, §1 (Vernon Supp. 1985).

3.2. The Act authorized TDWR to

adopt and promulgate rules . . . and establish minimum standards for all aspects of the management and control of [industrial] solid waste

TEX. REV. CIV. STAT. ANN. art. 4477-7 §4(c) (Vernon Supp. 1985).

The agency, via the Texas Water Development Board, its "legislative branch," promulgated rules and standards pursuant to this grant of statutory authority, as discussed more fully below.

3.3. The Act says that

[n]o person may cause, suffer, allow, or permit the collection, storage, handling, transportation, processing or disposal of solid waste or the use or operation of a solid waste facility for the storage, processing, or disposal of solid waste . . . , in violation of this Act or of the rules [or] permits . . . of the [TDWR]

TEX. REV. CIV. STAT. ANN. art. 4477-7 §8(a)(1) (Vernon Supp. 1985). The Act goes on to specify that "[a]ny person who violates any provision of this Act or of any rule . . . [or] permit . . . of the [TDWR] . . . " is subject to a civil penalty. Article 4477-7 §8(a)(2).

3.4. The hazardous waste portions of the Texas Act and Rules are related to the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6901-6987, and rules promulgated thereunder by the United States Environmental Protection Agency (EPA). The federal RCRA is a "cooperative federalism" enactment; it mandates that no state's requirements shall be less stringent than federal requirements respecting the same matter. 42 U.S.C. §6929. Section 6926 allows states to administer the RCRA program in lieu of EPA if they meet federal standards. On December 26, 1984, EPA granted Texas full, final authorization to administer the RCRA program.

3.5. One aspect of the RCRA program is a kind of "grandfathering" of facilities called "interim status". (The interim status standards are found in 31 Texas Administrative Code, Part 335, Subchapters B-T. The Court may take judicial notice of the Code. Amendments to the Code have been published in the Texas Register, of which the Court may also take judicial notice. Citations in this petition are intended to be to the Code as amended. The Hazardous Waste Regulations are attached as Appendix A.) If a hazardous waste facility was in existence before November 19, 1980--the effective date of the regulations--and if the facility had placed a partial application for a RCRA permit on file with EPA before that date, it has been allowed to continue to operate, pending official action on a completed application. 31 TEX. ADMIN. CODE §335.43.

IV.

FACTUAL BACKGROUND AND THE APPLICABILITY OF THE HAZARDOUS
WASTE REGULATIONS TO CHEMICAL RECYCLING'S OPERATIONS

4.1. Chemical Recycling, Inc., ("Chemical Recycling" or "the company") is in the business of recycling spent solvents. James R. Siemoneit is the president and operator of Chemical Recycling, Inc., and is responsible for the day-to-day operations at the company's plant, which is located at 802 Kirby Street in Wylie, Collin County, Texas.

4.2. Spent solvents received at the Chemical Recycling plant are distilled, and the resulting solvent products are stored in drums or tanks and eventually delivered to buyers. The impurities contained in the spent solvents fall to the bottom of the still and eventually form a layer of sludge known as "still bottoms". These still bottoms must occasionally be removed to increase the efficiency of the still.

4.3. The TWC Hazardous Waste Regulations incorporate EPA's definition of "hazardous waste". 31 TEX. ADMIN. CODE §335.42. Many of the substances present at the Chemical Recycling site are listed or identified by EPA as "hazardous wastes". The spent solvents that the company receives are hazardous because they exhibit the characteristic of ignitability. 40 C.F.R. §261.21. Chemical recycling recovers the following solvents by its distillation process: trichloroethylene, 1-1-1 trichloroethane, methylene chloride, xylene, toluene, and methyl ethyl ketone. The still bottoms from the recovery of each of these solvents is an EPA listed hazardous waste. Id. at §261.31. In addition, if any solvent product identified in this paragraph has been allowed to leak or discharge, that solvent is a listed hazardous waste. Id. at §261.33(f). EPA has listed these solvents as hazardous because of their toxicity. Id. at §§261.31 & 261.33.

4.4. Chemical Recycling's site consists of the central distillation plant, several drum storage areas for products and wastes, a tank battery of approximately twelve tanks for storing

products and wastes, and several areas where hazardous wastes have leaked or have been dumped onto the ground, sometimes intentionally.

4.4.1. The distillation plant is composed of five stills and associated pumps, tanks and pipes. Two stills are used for recovering paint thinners, two for ink thinners and one for chlorinated solvents. The distillation plant is built on an open-air concrete pad and is not contained by any wall or dike. Runoff of hazardous waste solvents is a frequent occurrence at the distillation plant.

4.4.2. Numerous drums are stored at the Chemical Recycling site. Some contain hazardous waste solvents that are being stored prior to distillation. Others contain solvents recovered by distillation. Most of the drums, however, contain hazardous still-bottom wastes. The total number of drums on-site changes constantly but is usually in the range of 1,000 to 2,000 drums. Many of the drums containing hazardous still-bottom wastes are rusted out and have allowed still bottoms and solvents to leak out.

4.4.3. The tank battery consists of at least thirteen tanks. Some tanks are used for product storage and some for waste storage. At least one of these tanks has leaked a substantial quantity of solvent.

4.4.4. Much of the soil at the Chemical Recycling site is covered with hazardous still bottom wastes. Other areas of soil are stained by ink solvent wastes. At one time, runoff of hazardous solvents from the distillation pad was collected in an unlined earthen pit and was allowed to evaporate or percolate into the soil or was discharged into a sewer line. This pit was in service until TWC enforcement personnel insisted that it be closed. On at least one occasion, an employee of Chemical Recycling was observed using a tractor in an attempt to bury hazardous still bottom wastes in the ground.

V.
VIOLATIONS RELATED TO DISCHARGE OF
HAZARDOUS WASTES

5.1. 31 TEX. ADMIN. CODE §335.4 sets out the general prohibition against discharges of industrial solid wastes:

[N]o person may cause, suffer, allow or permit the collection, handling, storage, processing or disposal of industrial solid waste in such a manner as to cause...[t]he discharge or imminent threat of discharge of industrial solid waste into or adjacent to the waters in the state without obtaining specific authorization for such a discharge from the Texas Department of Water Resources...."

By definition all "hazardous wastes" are also "industrial solid wastes". Id., at §§335.2 & 335.42. Therefore, the discharge of any hazardous waste violates §335.4.

5.2. Sometime during January of 1985, an employee of Chemical Recycling intentionally buried a quantity of hazardous still bottom wastes beneath the soil at the Chemical Recycling site. This conduct constitutes a violation of the discharge prohibition of 31 TEX. ADMIN. CODE §335.4.

5.3. On February 7, 1985, Defendants Chemical Recycling and James R. Siemoneit allowed the discharge of approximately 150 gallons of hazardous still bottom wastes from the distillation plant into an earthen pit at the Chemical Recycling site. This discharge constitutes a violation of 31 TEX. ADMIN. CODE §335.4.

5.4. The surface of the soil at the Chemical Recycling site is covered with numerous deposits of hazardous still bottom wastes. Most of these deposits were caused by the leaking or disintegration of rusted steel drums. Each such deposit constitutes a discharge of industrial solid waste, in violation of 31 TEX. ADMIN. CODE §335.4. The State alleges that at least 50 such violations have occurred at the Chemical Recycling site.

VI.
VIOLATIONS RELATED TO HAZARDOUS WASTE CONTAINERS

6.1. 31 TEX. ADMIN. CODE §335.242 states:

If a container holding a hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of this Chapter.

Defendants Chemical Recycling and James R. Siemoneit have violated this regulation by failing to transfer or otherwise properly manage the leaking hazardous waste contents of at least 50 drums at the Chemical Recycling site. Each such failure constitutes a separate violation.

6.2. 31 TEX. ADMIN. CODE §335.244(b) states:

A container holding hazardous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

Defendants Chemical Recycling and James R. Siemoneit have violated this regulation by storing at least 1,000 drums of hazardous still-bottom wastes in a manner which may cause them to leak. These drums are poorly painted and rusting and are stored in an open field, exposed to the elements. All of these drums have been stored on soil, and many of them have been allowed to stand for extended periods in mud or water. This manner of storage violates §335.244(a), and each improperly stored drum constitutes a separate violation.

VII.

VIOLATIONS RELATED TO ILLEGAL SHIPMENT OF HAZARDOUS WASTES

7.1. 31 TEX. ADMIN. CODE §335.10(a) says:

No generator of Class I industrial solid waste shall cause, suffer, allow or permit the shipment of Class I waste . . . without preparing a Texas Department of Water Resources manifest
A generator shall designate on the manifest one facility which is authorized to receive the waste described on the manifest.

"Class I industrial solid waste" is a TWC classification which includes all "hazardous wastes". Id., at §335.1. All "hazardous wastes" are therefore "Class I industrial solid wastes".

Sometimes in early 1984, Defendants Chemical Recycling and James R. Siemoneit shipped five drums of hazardous still-bottom wastes to Schnee-Morehead, Inc., in Irving, Dallas County, Texas. Defendants did not prepare a manifest to accompany this shipment. This conduct constitutes a violation of §335.10(a). Furthermore, Schnee-Morehead, Inc. is not a facility which is authorized to receive hazardous waste. This shipment to an unauthorized facility constitutes a separate violation of §335.10(a).

VIII.

VIOLATIONS RELATED TO FAILURE TO PREPARE CLOSURE PLAN

8.1. One of the greatest problems posed by hazardous wastes is what becomes of them when a waste producer closes its operations. The hazardous characteristics of many chemicals linger for decades or longer. If the person responsible for the creation of those wastes is careless in their containment, the problem may be discovered only after it has caused noticeable harm to public health or the environment. TWC therefore has promulgated rules to control the closure of hazardous waste facilities. The core of these regulations is the requirement that operators prepare a detailed closure plan, submit the plan for TWC approval well in advance of any closure activities, and then follow the plan in closing facilities. The preparation of a closure plan provides TWC with a vital tool to monitor the sites in the State which pose present and future environment hazards.

8.2. 31 TEX. ADMIN. CODE §335.213(a) provides that by May 19, 1981, "the owner or operator [of a hazardous waste facility] must have a written closure plan." Defendants Chemical Recycling, Inc. and James R. Siemoneit have violated this provision by failing to have a written closure plan for the Chemical Recycling, Inc. plant in Collin County, Texas. The requirement to prepare a closure plan is a continuing obligation, renewed each day since May 19, 1981. Each day that has passed since that date therefore constitutes a separate violation. TEX. REV. CIV. STAT. ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). As of January 1, 1986, those violations total 1,687.

IX.

VIOLATIONS RELATED TO FAILURE TO OBTAIN FINANCIAL ASSURANCE

9.1. The presence of hazardous wastes at any site creates an enormous potential financial liability. If the hazardous wastes are allowed to enter a neighbor's property or the groundwater the environmental cleanup of these hazards could be very expensive.

Likewise if the owner or operator abandons a hazardous waste site, an environmentally safe closure of the facilities could be quite costly. The hazardous waste regulations are designed to assure that such costs will be borne by the persons who cause the hazards, and not by their neighbors or the general public.

9.2. 31 TEX. ADMIN. CODE §335.233 adopts by reference the financial assurance requirements promulgated by EPA at 40 C.F.R. Part 265, Subpart H. These requirements are of two types:

1) financial assurance to protect third parties (also known as Environmental Liability Insurance), required by 40 C.F.R. §265.147; and 2) financial assurance for the closure of hazardous waste facilities, required by 40 C.F.R. §265.143. These requirements became effective on April 16, 1982. 31 TEX. ADMIN. CODE §335.233. Defendants Chemical Recycling, Inc., and James R. Siemoneit have failed to establish either type of financial assurance required by §335.233 and thus are in violation as to both requirements. The duty to establish both types of financial assurance is a continuing obligation, and each day since April 16, 1982, that Defendants have not complied constitutes a separate violation of each financial assurance requirement. TEX. REV. CIV. STAT. ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). Therefore, as of January 1, 1986, Defendants Chemical Recycling, Inc. and James R. Siemoneit have each committed 1,687 violations of the requirement to establish financial assurance for liability to third parties, and 1,687 violations of the requirement to establish financial assurance for closure.

X.

VIOLATIONS RELATED TO THE UNAUTHORIZED OPERATION
OF A HAZARDOUS WASTE FACILITY

10.1. 31 TEX. ADMIN. CODE §335.43(a) states that "no person shall store, process, or dispose of hazardous industrial solid waste without first having obtained a permit from [TDWR]." Defendants Chemical Recycling and James R. Siemoneit have stored, processed and disposed of hazardous industrial solid waste each day since November

19, 1980, the effective date of section 335.43(a) without having obtained a permit from TDWR. Each day of noncompliance since that date constitutes a separate violation. TEX. REV. CIV. STAT. ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). Therefore, as of January 1, 1986, Defendants Chemical Recycling and James R. Siemoneit have each committed 1,826 violations of 31 TEX. ADMIN. CODE §335.43(a).

VIOLATIONS RELATED TO FAILURE TO
CONDUCT WASTE ANALYSES

11.1. 31 TEX. ADMIN. CODE §335.114(a) states:

Before an owner or operator stores, processes or disposes of a hazardous waste, he must . . . [o]btain a detailed chemical and physical analysis of a representative sample of the waste.

Defendants Chemical Recycling and James R. Siemoneit have stored, processed and disposed of numerous hazardous wastes each day since November 19, 1980, the effective date of section 335.114(a), without obtaining a detailed chemical and physical analysis of a representative samples of those wastes. Each day of noncompliance since that date constitutes a separate violation. Therefore, as of January 1, 1986, Defendants Chemical Recycling and James R. Siemoneit have each committed at least 1,826 violations of 31 TEX. ADMIN. CODE §335.114(a).

XII.

VIOLATIONS RELATED TO EMERGENCY
PREPAREDNESS AND CONTIGENCY

12.1. 31 TEX. ADMIN. CODE §335.152, et seq. requires the owners and operators of hazardous waste facilities to have an emergency contingency plan. Section 335.153(e) requires that the contingency plan list the location and physical description of each piece of emergency equipment at the site. Although Defendants Chemical Recycling and James R. Siemoneit have prepared a document entitled "Contingency Plan", this document fails to list the location and physical description of each piece of emergency equipment at the site, and therefore, both Defendants are in violation of this section. Section 335.153(e) became effective on November 19, 1980, and each day of noncompliance since that date constitutes a separate

violation. TEX. REV. CIV. STAT. ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). Therefore, as of January 1, 1985, Defendants Chemical Recycling and James R. Siemoneit have each committed 1,826 separate violations of 31 TEX. ADMIN. CODE §335.153(e).

12.2. 31 TEX. ADMIN. CODE §335.133 states:

All facilities must be equipped with the following, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below: . . .

- (3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment;

Defendants Chemical Recycling and James R. Siemoneit have equipped the Chemical Recycling site with only one fire extinguisher, an insufficient number of fire extinguishers. Furthermore, Defendants Chemical Recycling and James R. Siemoneit have not equipped the Chemical Recycling site with any spill control or decontamination equipment. These failures mean that Defendants are in violation of section 335.133(3), which became effective on November 19, 1980. Each day of noncompliance since that date constitutes a separate violation. TEX. REV. CIV. STAT. ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). Therefore, Chemical Recycling and James R. Siemoneit have each committed 1,826 violations of 31 TEX. ADMIN. CODE §335.133(3).

12.3. 31 TEX. ADMIN. CODE §335.137 states:

The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:

- (1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
- (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

- (3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and
- (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

Defendants Chemical Recycling and James P. Siemoneit have not attempted to make any such arrangements. This section became effective on November 19, 1980, and each day of noncompliance since that date constitutes a separate violation. TEX. REV. CIV. STAT. ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). Therefore, as of January 1, 1986, Defendants Chemical Recycling and James R. Siemoneit have each committed at least 1,826 violations of 31 TEX. ADMIN. CODE §335.137(a).

12.4. 31 TEX. ADMIN. CODE §335.136 states

The owner or operator of a hazardous waste facility must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any areas of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

Defendants Chemical Recycling and James R. Siemoneit have failed to maintain adequate aisle space in the warehouse at the Chemical Recycling site, and thus have violated this section. The State at this time does not know the number of days on which Defendants have violated this regulation and therefore cannot at this time allege a specific number of violations.

12.5. 31 TEX. ADMIN. CODE §335.117(a) states:

- (1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this Chapter. The owner or operator must ensure that this program includes all the elements described in the document required under Subsection (d)(3).

Subsection (d) of section 335.117 states:

The owner or operator must maintain the following documents and records at the facility:

- (1) The job title for each position of the facility related to hazardous waste management, and the name of the employee filling each job;

- (2) A written job description for each position listed under Subsection (d)(1). This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;
- (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under Subsection (d)(1).
- (4) Records that document that the training or job experience required under Subsections (a), (b), and (c) has been given to, and completed by, facility personnel.

Defendants Chemical Recycling and James R. Siemoneit have not kept any record of the type or amount of training of any employee, and thus are in violation of Section 335.117(d)(3). This section became effective on November 19, 1986, and each day of noncompliance since that date constitutes a separate violation. TEX.REV.CIV.STAT.ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). Therefore, as of January 1, 1986, Defendants Chemical Recycling and James R. Siemoneit have each committed 1,826 violations of 31 TEX. ADMIN. CODE §335.117(d)(3).

12.6. Subsection (a)(2) of the personnel training requirement found at 31 TEX. ADMIN. CODE §335.117 states:

This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the position in which they are employed.

Defendants Chemical Recycling and James R. Siemoneit have violated this requirement by failing to provide a training program for those employees who work in the waste process area at the Chemical Recycling site. This requirement became effective on November 19, 1980, and each day of noncompliance since that date constitutes a separate violation. TEX. REV. CIV. STAT. ANN. art. 4477-7, §8(a)(2) (Vernon Supp. 1986). Therefore, as of January 1, 1986, Defendants Chemical Recycling and James R. Siemoneit have each committed 1,826 violations of 31 TEX. ADMIN. CODE §335.117(a)(2).

XIII.

INJUNCTIVE RELIEF

13.1. Present conditions at the Chemical Recycling site constitute a violation of the law and a hazard to public health and the environment. This Court should grant injunctive relief as follows:

13.1.1. Defendants Chemical Recycling and James R. Siemoneit should be ordered to conduct a complete testing program of soil and groundwater under and around the Chemical Recycling site for the presence of hazardous and other wastes, as indicated by the chemical constituents of these wastes. These Defendants should be ordered to submit a sampling and testing plan to TWC that will provide for soil and groundwater testing in accordance with the regulations and accepted scientific procedure.

13.1.2. Upon approval by TWC of the said sampling and testing plan, Defendants should be ordered to implement a sampling and testing program as prescribed in the approved plan. Upon completion of the sampling and testing program, Defendants should submit to TWC a detailed report of the results of the program. This report should specifically address any areas on or around the Chemical Recycling site at which evidence of hazardous waste or any hazardous waste constituent has been discovered. For each area in which hazardous waste has been disposed, this report should include a closure plan which complies with accepted engineering practice. The closure plan should provide for the removal of all improperly disposed hazardous wastes to an approved hazardous waste disposal site.

13.1.3. Defendants should be ordered that upon approval of the closure plan by TWC, Defendants must close all hazardous waste disposal areas at the Chemical Recycling site in accordance with the approved closure plan, the TWC regulations, and the standards of good engineering practices.

13.1.4. No bond is required of the State prior to the granting of an injunction, pursuant to TEX.REV.CIV.STAT.ANN. art. 4477-7 §8(a)(6) (Vernon Supp. 1986).

XIV.

ATTORNEY'S FEES

12. This is an action brought by the State to recover civil penalties or damages. The Attorney General is entitled to recover and collect reasonable attorney's fees and court costs on behalf of the state. In the event of an appeal to the court of civil appeals or the Supreme Court, the Attorney General would be entitled to recover and collect additional reasonable attorney's fees and court costs on behalf of the State. TEX.REV.CIV.STAT.ANN. art. 3917 (Vernon Supp. 1985).

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays:

1. That Defendants be cited to appear and answer herein:
2. That upon final trial of this cause a permanent injunction be granted against Defendants providing for the injunctive relief indicated above.
3. That upon final trial of this cause civil penalties within the range allowed by law be assessed against Defendants for each violation proved, plus reasonable attorney's fees and interest at the legal rate from the date of judgment until paid. Civil penalties are required by law to be deposited in the General Revenue Fund of the State of Texas.
4. That Plaintiff recover from the Defendants all of its costs in this action; and
5. That Plaintiff be granted all other relief, general and special, at law and in equity to which it may show itself to be justly entitled.

Respectfully submitted,

JIM MATTOX
Attorney General of Texas

MARY F. KELLER
Executive Assistant Attorney
General for Litigation

NANCY N. LYNCH
Assistant Attorney General
Chief, Environmental
Protection Division

Grant Gurley

GRANT GURLEY, SBN 08629000
Assistant Attorney General

Environmental Protection Division
P.O. Box 12548
Austin, Texas 78711-2548
(512) 463-2012

0033G

Texas Water Commission

INTEROFFICE MEMORANDUM

TO : *SA* Files

DATE: 3/25/87

THRU :

FROM : Michael A. Moore, Hydrologist
Hazardous and Solid Waste Enforcement Unit

SUBJECT: Chemical Recycling, Inc. - Reg. No. 32355 TXD 053131223
Electro Extraction, Inc. - Reg. No. 30021
Local Ground Water Resources

On March 19, 1987 I completed a review of the TWC's literature and records concerning ground water resources in the vicinity of the subject sites. Documents reviewed include: Occurrence, Availability, and Chemical Quality of Ground Water in the Cretaceous Aquifers of North-Central Texas, Texas Department of Water Resources Report 269, April 1982; Water-Level and Water-Quality Data From Observation Wells in Northeast Texas, Texas Water Development Board Report 198, February 1976; and the Texas Water Well Drillers Board well reports for southeast Collin County and northeast Dallas County.

Records for a total of nine wells were found for the area within a three-mile radius of the sites. Approximate locations of those wells are indicated in Figure 1. A summary of pertinent information concerning each well is presented in Table I. Copies of well driller's reports are found in Attachment A. Based on the well drillers' logs, a generalized cross-section of the area was constructed, and is presented in Figure 2. The cross-section illustrates the subsurface geology to a depth of 80 feet below land surface (the depth of the deepest well in the area for which a driller's log was available) along a line extending from west to east through a point approximately midway between the two sites (Fig. 1). Logs for the four wells closest to the line were used to construct the cross-section. The information thus compiled was compared to a regional cross-section from TDWR Report 269 (Figure 3) to determine the occurrences of the shallow subsurface geological features in the area.

Based upon telephone conversations with an employee of the City of Wylie Water Utilities Department, it appears that most domestic water used in the area is provided from nearby Lake Lavon by the City and the North Texas Municipal Utility District (MUD). Two private water supply companies (East Fork Water Supply Co. and Northeast Wylie Water Supply Co.)

purchase water from North Texas MUD. Residences which are outside the Wylie city limits and not serviced by North Texas MUD or one of the private water supply companies must rely on water purchased from water haulers or on water pumped from shallow wells. According to the attached well logs, ground water is generally encountered within 15 to 20 feet below the ground surface. This water is apparently extracted from a blue shale stratum which probably represents the uppermost zone of the Austin Group. The outcrop of the Austin Group occurs approximately 10 miles west of Wylie and is overlain by 5 feet of topsoil and another 15 feet of yellow clay in Wylie (Fig. 2).

According to a report from the TWC District 4 office (IOM dated March 9, 1987), large quantities of bulk liquid solvent wastes and solvent recovery still bottoms have allegedly been disposed in trenches at the Electro Extraction landfill, and at the Chemical Recycling plant site. These trenches were reportedly excavated to a depth of 10 to 15 feet below the ground surface. If these allegations are true, it appears that liquid solvent wastes may have been disposed within 5 feet of the upper transmissive zone of the Austin Group, which provides water to residents within 3 miles of the sites. A review of the literature indicates that soils, including clays, are generally permeable to many of the solvents known to have been handled by Chemical Recycling (TWC files on Chemical Recycling, Inc; "Effect of Organic Chemicals on Clay Liner Permeability", Brown, K.W. and David Anderson, EPA-600/9-80-010, March 1980; and "Background Document for Solvents, to Support Land Disposal Restrictions", USEPA, 1986).

Based upon the results of this review, and the fact that solvent wastes may have been present in these landfills for several years (prior to 1978), it appears that the subject sites require additional investigation to determine if solvent wastes have migrated into ground water from the disposal facilities. This investigation should include a soil boring program to more accurately characterize the local geology and to identify the vertical limits of the uppermost water bearing unit, and subsequent installation and sampling of ground water monitoring wells.


Michael A. Moore

cc: Grant Gurley, Texas Attorney General's Office
Mike Woodward, TWC Legal
Kate Arthur, TWC State Superfund
Don Eubank, TWC District 4

TEXAS WATER COMMISSION

Paul Hopkins, Chairman
Ralph Roming, Commissioner
John O. Houchins, Commissioner



Larry R. Soward, Executive Director
Mary Ann Hefner, Chief Clerk
James K. Rourke, Jr., General Counsel

August 5, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James R. Siemoneit, President
Chemical Recycling, Inc.
P.O. Box 947
Wylie, Texas 75098

I. #C

Re: Chemical Recycling, Inc.
Solid Waste Registration No. 32355
Piezometer Locations

TX0053131223

Dear Mr. Siemoneit:

We have completed a review of the proposed piezometer locations as submitted by Team Consultants, Inc. letter dated July 31, 1987. It appears that if piezometers are properly installed in the locations proposed, the purpose of this phase of the site investigation as stated in item I.A. of the Agreed Temporary Injunction (No. 219-069-86), signed on July 24, 1987, can be achieved.

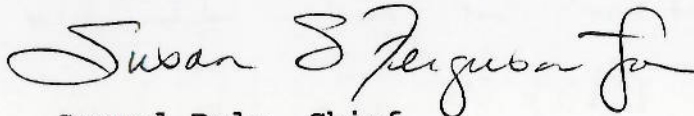
It should be noted that the results of a file review by Texas Water Commission (TWC) staff indicates that the shallow ground water in the area of your plant flows generally from west to east. If this is confirmed by measuring water level elevations in your piezometers, it will probably be necessary to install at least one additional piezometer in order to verify direction of movement of the shallow ground water beneath the north half of the site. Therefore, it is recommended that such piezometer(s) be installed along the eastern property line somewhere between your proposed northeastern piezometer and the railroad right-of-way on the north end of the site, after the occurrence of ground water is confirmed and while the drilling equipment is still on-site. This would produce more complete results toward meeting the purpose of the study as stated in the Agreed Temporary Injunction and would also save both time and money in the long run.

Mr. William Prikryl of Team Consultants, Inc. has contacted members of the TWC District 4 office and the Central Office in Austin concerning the actual dates scheduled for installation of the piezometers. It is anticipated that TWC

Mr. James R. Siemoneit
Page 2
August 5, 1987

representatives will be present at the site during installation and sampling of the piezometers. If you have any questions or comments concerning this matter, please contact Michael Moore of the Hazardous and Solid Waste Enforcement Section at 512/463-8425.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan S. Ferguson for".

Samuel Pole, Chief
Hazardous and Solid Waste Enforcement Section

MM/mm

cc: Mr. William Prikryl, P.E., Team Consultants, Inc.
Mr. Vance Dunnam, Sr.
Mr. Grant Gurley, Assistant Attorney General
Mr. Michael Woodward, TWC Legal Division
TWC District 4

P - C - L - W TRACKING

Chemical Recycling

K6 3-20-86 14-86

P - C - L - W TRACKING

FACILITY ID: TXD 053131223

NEW ENTRY ^{XX} -

CHANGE ENTRY -

DELETE ENTRY -

HEADER TYPE: P
ACTION ITEM: 40HEADER TYPE SEQ NO: 01
TRACKING SEQ NO: 01

RESPONSIBLE AGENCY: -

RESPONSIBLE PERSON: ---

DATE DUE: -----

ACTION DATE: 850807

STATUS CODE: --

FREE FIELD 1: -

FREE FIELD 2: --

FREE FIELD 3: ---

FREE FIELD 4: ---

FREE FIELD 5: ---

FREE FIELD 6: ---

COMMENT TEXT (80 CHARACTERS MAXIMUM) :

PERMIT ACTION LINKED TO -----

PERMIT ACTION LINK CHANGED FROM ----- TO -----

DELETE PERMIT ACTION LINK TO -----

P - C - L - W HEADER

KG 3-20-86

Chemical recycling

P - C - L - W HEADER

FACILITY ID: TYD053131223

NEW ENTRY X

CHANGE ENTRY ~~2~~

DELETE ENTRY -

(C2001) HEADER TYPE: P

(C2002) HEADER TYPE SEQ NO: --

HEADER PROCESS TYPE: S
(C2003)R/S/C IND: -
(C2051)DATE COVERAGE EFFECTIVE: -----
(C2004)

(C2052)	APPLICABLE (C2051)	PROCESS AMOUNT (C2053)	UNITS (C2054)
STORAGE			
(S01) CONTAINERS	-	-----	-
(S02) TANKS	-	-----	-
(S03) WASTE PILES	-	-----	-
(S04) SURFACE IMPOUNDMENTS	-	-----	-
DISPOSAL			
(D79) INJECTION WELL	-	-----	-
(D80) LANDFILLS	-	-----	-
(D81) LAND APPLICATION	-	-----	-
(D82) OCEAN	-	-----	-
(D83) SURFACE IMPOUNDMENTS	-	-----	-
TREATMENT			
(T01) TANKS	-	-----	-
(T02) SURFACE IMPOUNDMENTS	-	-----	-
(T03) INCINERATORS	-	-----	-
(T04) OTHER	-	-----	-

III-1, TXD053131223

LB

TEXAS WATER COMMISSION
Solid Waste Inspection Report

TWC Reg. No. 32-355

TWC District 04

INSPECTION COVER SHEET

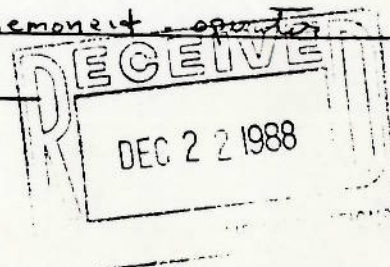
C.O. Use Only

EPA ID No. TXD0531223COMMERCIAL WASTE FACILITY ☒NAME OF COMPANY Chemical Recycling, Inc.MAILING ADDRESS P.O. Box 947, Wylie, TX 75098Tel. (214) 442-5495SITE LOCATION 802 Kirby St., Wylie, TX 75098Tel. (214) 442-5495COUNTY CollinTYPE OF INDUSTRY Solvent Recycling, Fuel BlendingGENERATOR CLASSIFICATION: Industrial ☒ Municipal ☐GOVT. FACILITY: ☐OPERATIONAL STATUS: ActivePart A Permit Application submitted to the State? Yes ☒ No ☐Affidavit of Exclusion submitted to TWC? Yes ☐ No ☒Was a written exclusion granted by TWC? N/A ☒ Yes ☐ No ☐ ...If yes, Date: Will this facility require a RCRA permit? Yes ☒ No ☐Part B application submitted? N/A ☐ Yes ☒ No ☐RCRA closure required? N/A ☐ Yes ☒ No ☐

CURRENT WASTE MANAGEMENT (Haz.-"H"; Class I NonHaz.-"NH"; Class II-"II"; Class III-"III")

Generator H, NH Treatment H Storage H Disposal H, NH Transporter H

HW EXEMPTIONS: ☐ CESQG: Total HW Generation per Month: <100 kg. HW & <1 kg. Acute HW
☐ SQG: Total HW Generation per Month: 100 to 1000 kg. HW & <1 kg. Acute HW
☐ 90-Day Accumulation
☒ OTHER: Interim Status Facility

H W FACILITIES (circle codes): BA ☐ C ☒ T ☒ SI WP LT ☒ I TT TR WDW ON H FACILITIES (circle codes): C ☒ T SI WP LT ☒ I TT TR WDW OENFORCEMENT STATUS: AG Office, Agreed Temporary Injunction issued April 6, 1988TYPE OF INSPECTION (circle): ☒ CEI ☐ SQG ☐ CL ☐ CD ☐ OT ☐ FO ☐ SP ☐ REC ☐ REVInspector's Name and Title Richard Clarke, Environmental Quality SpecialistInspection Participants Allen Hayes, Dist 4 Inspector, J.R. Siemon, operatorDate(s) of Inspection November 17, 1988Signed: Richard D. Clarke 12-19-88
Inspector DateApproved: [Signature]
District Manager

TEXAS WATER COMMISSION



HAZARDOUS WASTE COMPLIANCE MONITORING AND ENFORCEMENT LOG

☒ NEW ☐ UPDATE

TDWR ID: 32355

1. EPA ID: TXD053131223

INDUSTRY: CHEM RCY

DISTRICT: 04

2. INDUSTRY NAME: Chemical Recycling, Inc.

PHONE: () -

3. SITE ADDRESS: Wylie, TX

ZIP:

COUNTY: Collin

7. DATE SUBT: 10-15-86
(CENTRAL OFFICE USE ONLY)FACILITY: (G, F, T) GFT
(S, L)
(1, 2, 3)

4. C, F, S: C

6. TYPE OF EVALUATION: SA

CEI - EV, EC, EP, EB
CME - GW
OTHER - CL, SW, OT, FEFOLLOW UP - FO
SAMPLE - SA
CASE DEVELOPMENT - CD

5. DATE OF INITIAL EVALUATION: 05-06-85

RESPONSIBLE AGENCY: S

		E v a l	D e g	AREA AND CLASS OF VIOLATION (INCLUDES DISTRICT LEVEL ENFORCEMENT ACTIONS)																Resolv/Unres/ Compliant
				Date Notice of Violation	Date Conference	Date Refer. to Austin for Enf.	Date High Prior. Determination	Date Response is Due for NOV	Date of Estim. Compliance	Date of Actual Compliance										
G	W																			
56	57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124		
C	L																			
56	57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124		
P	T																			
56	57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124		
M	A																			
56	57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124		
F	I																			
56	57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124		
S	C																			
56	57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124		
O	T	X																C		
56	57	58	59	61	68	70	77	79	86	88	95	97	104	106	113	115	122	124		
COMMENTS: (COUNTY)																				
.	0	1	0	4	3															
1	3	5	7	9	12	14	16	18	21	23	25	27	30	32	34	36	39	41		
59	61	63	66	68	70	72	75	77	79	81	84	86	88	90	93	95	97	99		
102	104	106																		

WORK NO: 9091

NO. OF SAMPLES: 3

SUBMITTED BY: KEN ZARKER, Program Support for Geraldo H Garcia

I.2

Shurley

AG Referral

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

May 22, 1989

TXD053131223

Ms. Nancy Lynch, Chief
Environmental Protection Division
Attorney General of Texas
P. O. Box 12548
Austin, Texas 78711-2548



Re: Chemical Recycling, Inc.
Solid Waste Registration No. 32355
Referral of Additional Violations

Dear Ms. Lynch:

On November 17, 1988, a representative of the Texas Water Commission (TWC) conducted an inspection at the subject facility. During the inspection, the following new alleged violations were noted:

1. 31 TAC §335.6 - Notification Requirements
2. 31 TAC §335.112(a)(1)/40 CFR §265.13 - General Waste Analysis
3. 31 TAC §335.112(a)(5)/40 CFR §265.191 and §265.197 - Assessment of Existing Tank System's Integrity and Closure and Post-closure care
4. 31 TAC §335.431/40 CFR Part 268 - Land Disposal Restrictions
5. 31 TAC §335.225 - Standards Applicable to Marketers of Hazardous Waste Fuel
6. Agreed Temporary Injunction Section III. A. - Scheduled Reduction of Hazardous Waste Inventory
7. Agreed Temporary Injunction Section III. C. - Maximum Allowable Inventory of Hazardous Waste

Please include these new violations in the present case against this company. A copy of the inspection report is enclosed for your convenience.

Ms. Nancy Lynch
Page 2

On February 10, 1989, the TWC Hazardous and Solid Waste Enforcement Section referred this case to the TWC Contracts Remediation Section for consideration for Federal or State Superfund action. The U.S. Environmental Protection Agency is presently conducting an emergency removal action at the site, and negotiating with potentially responsible parties for additional remedial action. If you have any questions or comments concerning this matter, please contact Michael Moore of our Enforcement Section at (512) 463-8425.

Sincerely,



Russell S. Kimble, Chief
Hazardous and Solid Waste Enforcement Section
Hazardous and Solid Waste Division

Enclosure

MM:mm

cc: Shirley Workman, EPA RCRA Programs Branch, Grants and
Administration Section (6H-HS)
Linda Thompson, EPA Enforcement Branch Oversight
Section (6H-O)
TWC District 4 Office
Ken Zarker, TWC Reports and Information Management Unit
Jack Kramer, TWC H&SW Contracts Remediation Section

1.5
TEXAS WATER COMMISSION 8-6-8

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner



Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

April 6, 1989

Allyn M. Davis, Ph.D., Director
Hazardous Waste Management Division
US EPA, Region VI
1445 Ross Avenue
Dallas, Texas 75202

Re: Chemical Recycling SWR 32355, EPA ID No. TXD 053131223
Hart Creosoting SWR 32971, TXD 050299577
y] Safety-Kleen Lubbock SWR 62018, TXD 000747436
Technical Coatings SWR 33276, TXD 048132674

Dear Dr. Davis:

This letter is in response to your letter of March 15, 1989 which inquired about the status of enforcement of the above cases. Chemical Recycling is involved in litigation through the Texas Office of the Attorney General, in addition the company has no money and was referred (including the November 19, 1988 inspection) to our Superfund Section on February 10, 1989. Hart Creosoting is also in litigation through the Attorney General. The violations noted at the November 29, 1988 inspection were referred to the Attorney General by letter dated February 8, 1989. A petition for a TWC Administrative Order for Safety Kleen Lubbock will be filed by April 2, 1989. A petition for a TWC Administrative Order was filed for Technical Coatings on January 24, 1989.

If you have further questions regarding these matters, please contact Alice Hamilton Rogers, P.E., at 512/463-8181.

Sincerely,

A handwritten signature in cursive script that reads "Daniel J. Eden".

Daniel J. Eden, Director
Hazardous and Solid Waste Division

ARH/da

cc: Ken Zarker, TWC Reports and Information Management Unit

TWC Solid Waste Inspection Report
For Non-Permitted Facilities
CONTENTS SHEET

TWC Reg. No. 32355

- ☒ 1. Data Entry Form 0814
- ☒ 2. Inspection Cover Sheet
- ☒ 3. Generators Checklist
- ☒ 4. General Facilities Checklist
- ☒ 5. Transporters Checklist
- 6. Facility Component Checklists (facility code)
 - N/A Satellite Accumulation Area (SA)
 - ☒ Containers (C)
 - ☒ Tanks (T)
 - N/A Surface Impoundments (SI)
 - N/A Waste Piles (WP)
 - N/A Land Treatment (LT)
 - ☒ Landfills (LF)
 - N/A Incinerators (I)
 - N/A Thermal Treatment (TT)
 - N/A Chemical, Physical or Biological Treatment (TR)
 - N/A Other (O): _____
- ☒ 7. Closure/Post-Closure Checklist
- N/A 8. Closure-in-Progress Checklist
- ☒ 9. Groundwater Monitoring Checklist Group
- 10. Land Disposal Restriction Checklists
 - ☒ Form A - Waste Determination
 - ☒ Form B - TSD
 - ☒ Form C - Manifesting
 - ☒ Form D - F solvents & Dioxins
 - ☒ Form E - California List
- N/A 11. TWC Registration
- ☐ 12. Maps, Plans, Sketches
- ☐ 13. Photographs
- ☐ 14. Sample Analysis Results
- ☐ 15. Notice of Violation (NOV) Letter
- ☒ 16. Interoffice Memorandum (IOM)
- ☒ 17. Other (describe): Map of the Facility.

NOTE: If a required Checklist is omitted, explain: _____

***Section C - INTERNATIONAL SHIPMENTS (335.76)**

1. If generator exported hazardous wastes, was the appropriate notification made to the EPA?
2. Was the waste manifested and signed by the foreign consignee?
3. Has confirmation of waste transportation out of the country been received by the generator?

N/A ☒ YES ☐ NO
N/A ☒ YES ☐ NO
N/A ☒ YES ☐ NO

***Section D - RECORDKEEPING and REPORTING (335.9,.13,.329,.70-71)**

1. Does generator maintain the following records and reports, if applicable, for three years:
 - a. Waste shipping manifests?
 - b. Monthly off-site shipment summaries (out-of-state only)?
 - c. Quarterly on-site land disposal summaries?
 - d. Monthly waste receipt summaries (TSD facilities only)?
 - e. Company records of industrial solid waste activities? [335.9(a)(1)]
 - f. Company records of haz. waste activities for municipal HW generators of >100 kg/mo. or >1 kg/mo. acutely HW?
 - g. Analytical results of HW determinations?
 - h. Annual reports (submitted by Jan 25)?
2. Has generator submitted exception reports to TWC for any original (white) copies of manifests not received back from TSD facilities? (N/A to all CE-SQGs)

N/A ☐ YES ☒ NO
N/A ☐ YES ☒ NO
N/A ☒ YES ☐ NO
N/A ☐ YES ☒ NO
N/A ☐ YES ☒ NO
N/A ☒ YES ☐ NO
N/A ☐ YES ☒ NO
N/A ☐ YES ☒ NO

N/A ☒ YES ☐ NO

+++ IF GENERATOR DISPOSES OF WASTES ON-SITE ONLY, WRITE, N/A IN SECTIONS E & F +++

***Section E - MANIFEST REQUIREMENTS (335.10)**

1. Does generator use waste manifests when shipping Hazardous and Class I Nonhazardous wastes offsite?
2. Are Waste Manifests properly completed and signed?
3. Are off-site disposal facilities RCRA-permitted or operating under RCRA interim-status standards?
4. Identify primary off-site disposal or recycling facilities:

N/A ☐ YES ☒ NO
N/A ☐ YES ☒ NO
N/A ☐ YES ☒ NO

Systech - Kansas ; Chemical Reclamation Services - Austin, Tx

*** NOTE: Sections C, D, E, and F are not applicable to Municipal CE-SQGs.**